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Hastings Law News

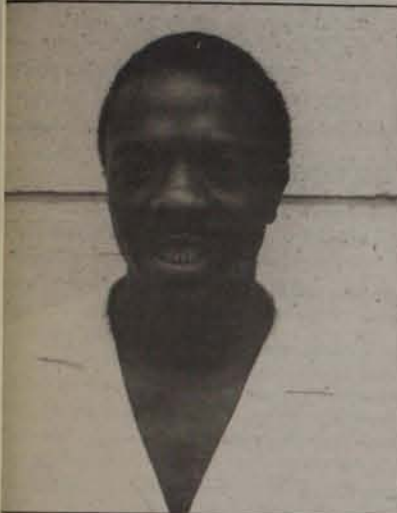
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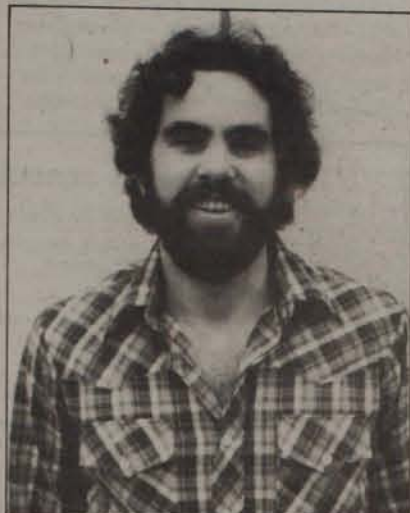
Hastings Law News

March 31, 1981

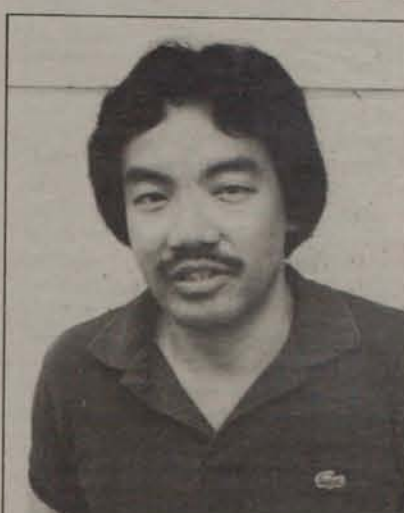
ELECTION EDITION



Marvin Blakely



Brendon Brady



Tom Yin



Nancy Wong



John Wade



Jim Lipschultz



Brad Miller

Blakely/Brady/Yin CAMPAIGN STAND

Our day-to-day existence at Hastings can often be a frustrating and dehumanizing experience. While law school is often portrayed as an immutable process through which we gain tools to deal with the world of power and money, this does not mean we as individuals have to placidly submit.

A.S.H. can be a vehicle of change. It is up to us to become aware of its potential and utilize it. We are all the Associated Students of Hastings and the leadership of A.S.H. is only as effective as we make it.

A.S.H. is the primary conduit for communication between the students and the administration and faculty as well as the larger community. This communication process must be improved for viable student representation to occur. Certainly very few of us know what A.S.H. has done and what it has the potential to do. A.S.H. must enhance its efforts to represent student concerns and just as importantly attempt to determine the entire range of these concerns.

It is our intention to continue those means of communication that have proven themselves in the past and at-

Continued on back page

Wade/Lipschultz/ Miller Platform: ASH NEEDS A CHANGE!

ASH is a student government for ALL students. But it has not served as many students as possible. In the past, ASH has limited its focus to a few meritorious causes. We believe that ASH is also *obliged* and capable of serving the entire student body.

WHAT ASH CAN DO FOR YOU:

Improve Student Communications:

The *Hastings Law News* can be published monthly and be expanded to include entertainment, reviews, sports, humor, editorials and letters to the editor. ASH can provide a glass-enclosed "1st Amendment Board" where students can post *anything* they want—including humorous and political items—without it being defaced or ripped-off. ASH can arrange for a *Student Weekly* for unofficial student announcements, opinions, and humor. Like the "1st Amendment Board," students will be free to publish *anything* they want.

Increase Student Services:

ASH can assist the *Child Care Center*. ASH can run an *efficient Book Sale* before every semester. ASH can once again provide "Professor and Course Evaluations" (P.A.C.E.). ASH can provide a better *Student Directory*

Continued on back page

STATEMENT BY NANCY WONG

I am Nancy Wong, and I am running for Associated Students at Hastings (ASH) Vice President. If you want a vice president who is willing to put many hours of hard work into the job, who is active in student affairs, and who is interested in making Hastings a better school, please consider my qualifications for the job.

I am one of the second year representatives on the ASH Council and have attended all meetings. Other candidates have not attended ASH meetings, yet they feel that ASH has not been doing a good job. I think that ASH has accomplished a great deal this year. There were recent tensions with security being a little over-zealous about checking student ID cards; ASH set up meetings with students and Jason Harvie to discuss possible solutions. Security and students have seen a reduction in tension. ASH has also been working with Hastings Child Care Center—last week Hastings promised space in the Empire Building for the child care. ASH has been accused of being interested in only a few special groups; I think that is unfair and inaccurate—ASH has funded many activities including in-

Continued on back page

THE LAW NEWS WANTS YOU

That's right, not the person reading over your shoulder, but you, sitting there and reading this. The *Law News* is organizing the staff it will need to run in 1981-1982. The *Law News* needs people with the interest and willingness to make this newspaper run. People are needed to fill the positions of News Editor, Feature Editor, Opinions-Editorial Editor and Photography Editor. People looking for a change from the specialized requirements of legal writing are encouraged to look to the *Law News* as an alternative to academic writing. Writers interested in becoming full-time staff writers and later becoming Department Editors are strongly urged to come to the first organizational meeting to be held later this year, prior to finals. No previous journalistic background is needed, nor will any writer be confined to reporting in only one narrow area.

The *Law News* is particularly interested in finding a committed person to serve as Business Manager who will deal with the regular business of the *Law News* as well as having responsibility for annual budgetary submissions. This job may be combined with that of Advertising Manager, who will have the responsibility of maintaining our client contacts as well as soliciting for new advertising. The *Law News* is looking for any experienced paste-up and galley proof editors. A substantial production staff (headed by the Production Editor) could go a long way in reducing our costs and thus increasing the frequency of publication.

So start thinking about it now. Break that dull brief habit and start writing in PLAIN ENGLISH. Check the Hastings Weekly soon.

Financial Aid Hit By Proposed Cuts

by Andy Niemyer

Nearly half of Hastings' 1150 students now receiving financial aid could be affected by proposed budget cuts currently before Congress. The *Law News* has learned that approximately 550 students may have some or all of their financial aid affected by proposed new standards tightening the definition of "need".

In an interview with Hastings' Financial Aid Director Thomas Wadlington, it was revealed that the Reagan administration has proposed a two part package that will materially alter the Guaranteed (GSL) and Federally Insured Student Loan (FISL) programs. First, the Administration has proposed that all GSL/FISL's be approved only on the basis of demonstrated financial need. This will require the time consuming task of gathering data for inclusion in the privately run Graduate and Professional

Student Financial Aid Statement (GAPFAS). Wadlington strongly recommended that it would probably be advisable for anyone contemplating requesting Financial Aid to fill out the form now so that the information would be on file should the need arise.

A second proposal which could strongly shape the final amounts given to students would, in effect, force the students to pay annual interest on their loans while they are at their financially most vulnerable point, while they are still in school. The proposal is to wipe out the Federal interest subsidy program which paid lending institutions the annual interest on loans while students were still in school. If a student had a loan through either program prior to 1981-82, then they would be paying seven percent interest on their loan balances. If not, then a rate of nine percent would be applied. That could lead to a difference of \$100 per year on a five thousand dollar loan between the two rates. The *Law News* has printed below some sample amounts the two rates will charge should the proposal go through.

Wadlington foresaw numerous effects of the proposals upon students, institutions of learning, and lenders, none of which seem to bode well for the near term. Students would be more inclined to chose less costly schools as a result, in effect drawing them from private schools which use the loans for living costs and tuition, to public schools, which mainly award the loans for living costs only. This increase in enrollment will therefore decrease the number of spaces open for students trying to transfer after starting their first years. A situation like that could mean the Hastings' transfer admissions program would be halted for lack of room very quickly as space simply runs out.

Besides drawing students away from costlier private schools, the changes could mean that "border-line" students, ones who are just above the need level, could be forced out of school for the simple want of enough money to make it. Wadlington indicated that a good example would be a married couple where one spouse is

employed and is making just enough to currently qualify, but who may not be qualified with the new regulations.

With the possibility of declining enrollment in private schools swelling the size of public schools, comes the effect upon those private schools in terms of being able to finance the remaining students. The proposals could force those schools to raise their tuition costs even higher, increasing the cost differential even further and driving more and more students out of their schools.

Lending institutions may also change their minds about participation in the program, Wadlington foresaw. The costs of administering interest payments may far outstrip the amounts collected, causing the institu-

tions to lose their willingness to participate in the program in any manner. The result would be fewer lenders with a great deal more applicants than they had anticipated, and this could result in some students, no matter how worthy, going without aid and possibly leaving school.

Wadlington did say that an active lobbying effort by the nationwide association of financial aid officers was trying very hard to change the package. He pointed out, however, that much of the effort was directed at aspects that affect undergraduate institutions and their financial stability. These interests are not so directly tied with GSL/FISL, and thus the changes could occur due to inattention to the matter.

Jessup Cup Competition Team Selected

by Dan Koller

The Hastings Jessup International Moot Court team was selected last month. The decision concludes weeks of researching and writing memorials (similar to briefs) and twenty minutes of oral arguments by each of the applicants who competed for the team this year. The five chosen to represent Hastings this year are all second year students — Chris A. Carlson, Kathy Kerridge, Cameran Kirk Jr., Elizabeth McNalley and Jerry Peters.

This year's problem concerns the laws and criteria that should apply in delimiting boundaries of the Atlantic continental shelf, as between two adjacent nations, the Republics of New Ghana and New Togo. It was presented by the Association of Student International Law Societies (ASILS). The teams will argue before a hypothetical International Court of Justice to resolve the controversy between the two nations.

The Annual Jessup International Moot Court Competition is open to all second year students. Identical to the National Moot Court Competition, selection is based upon the quality of both the briefs submitted (limited to 25 pages in length) and the oral arguments. The size of the final team varies from two to five members. The International team must submit two team memorials to ASILS, representing both sides of the issue. The memorials are due in early February. The regionals take place approximately one month later. Competitors

Continued on back page

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Reproductive Oppression: Human Life Amendment

by Lori Ingram and
Emily Graham

In 1973 the U.S. Supreme Court recognized a woman's right to choose abortion as an integral part of her constitutionally protected right to privacy. The case of *Roe v. Wade* held that during the first two trimesters of pregnancy the decision to have an abortion is solely the concern of a woman and her doctor. *Roe* reversed nearly a century of criminal abortion laws which forced millions of women to undergo dangerous and costly illegal abortions, and made it possible for women to seek legal abortions at significantly less risk to their physical and emotional health.

The Situation Today

While *Roe* has not been directly challenged, the right to abortion has been steadily diminished by anti-abortion activity in the courts and the political arena. States have enacted parental consent and so-called "informed consent" statutes which impose unnecessary burdens on women who seek abortions. The federal Hyde Amendment, first passed in 1977, prohibits the use of federal Medi-caid funds to pay for abortions except in limited situations where the woman's life is endangered, or where the pregnancy is a result of rape or incest. Studies from states with similar funding restrictions show that those exceptions are meaningless: over 90% of abortions performed fall outside these categories. The Hyde Amendment was ruled constitutional by a sharply divided Supreme Court in June 1980.

In California, the state Supreme Court is deciding the constitutionality under the state law of restrictive funding legislation similar to the Hyde Amendment. Oral arguments were heard last September and a decision is expected any day. The case, *CDRR v. Meyers*, will determine if California will continue to provide abortion funding for poor women under the state Medi-Cal program. If the funding cutoff is upheld there will be annual legislation battles to prevent passage of similar budget restrictions. If the legislation is held unconstitutional under state equal protection and privacy laws, anti-abortion forces will continue other efforts to prevent women from receiving safe, legal abortions. One current tactic is the Human Life Amendment.

HLA - Constitutional Oppression

The proposed Human Life Amendment (HLA) would abolish legal abortions entirely. Its supporters are anti-choice groups such as the National Right to Life Committee, the Moral Majority, the National Conservative Political Action Committee, the Catholic and Mormon churches, Phyllis Schlafly's Anti-ERA Committee, Representative Henry Hyde and Senator Jesse Helms.

If passed, the HLA will bestow equal rights of personhood on a fertilized egg and will prevent any interference with the biological development of that egg. It will strip away women's rights to bodily integrity, privacy, and religious freedom. The physical and mental health of the pregnant woman will be legally irrelevant. All rights will be subordinate to those granted to the fertilized egg.

There are several proposed versions of the HLA. The amendment by

Senator Jesse Helms provides the following:

- Section 1. With respect to the right to life, the word person as used in this article and in the Fifth and Fourteenth Articles of Amendment to the Constitution of the United States applies to all human beings irrespective of age, health, function or condition of dependency, including their unborn offspring at every stage of their biological development.
- Section 2. No unborn person shall be deprived of life by any person; provided however, that nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.
- Section 3. The Congress and the several states have the power to enforce this article by appropriate legislation.

Many supporters of the HLA downplay the legal ramifications of the amendment and seek to avoid the obvious consequences of its passage; the classification of the abortion procedure as homicide. Under its terms:

- *A pregnant woman who obtained an abortion, and a doctor who performed an abortion, would be subject to prosecution for murder;
- *Any relative or friend who helped a woman procure an abortion would be subject to prosecution as an accomplice;
- *Miscarriages would be investigated to determine whether they were truly spontaneous or were intentionally or accidentally caused by a person and therefore criminal;
- *IUDs, low estrogen birth control pills and other contraceptives that prevent implantation of a fertilized egg would be prohibited;
- *Women would be forced to carry a pregnancy to term even when it was known that the fetus suffered severe congenital defects or when it was certain it could not survive at birth.

There are almost no limitations to how far the government could reach in fulfilling its obligations to protect a fetus from the moment of conception. The HLA would provide the excuse for passing more "protective" legislation for pregnant women, proscribing their right to engage in certain employment and other activities. Because it is never possible to be sure exactly when conception occurs, protective legislation would target all women of childbearing age.

... (Section 2) of the HLA would create a whole new area of congressional control namely the protection of unborn "persons" against injury by any "person". . . . Any attempt to enforce the "right to life" of the fetus "person" would involve not only a wholesale invasion of the right to privacy of all women of childbearing age, but would necessitate a federal law enforcement apparatus which would threaten the privacy of us all. Thus, in the interests of the unborn we would not only be giving them protection far beyond any accorded to those of us who have already been born, but we would have taken a long step toward creating an all powerful federal bureaucracy and impairing the essential right of privacy of all born persons, which would be permanently and irrevocably in jeopardy.

Harriett Pilpel, Esq., Senior Partner, Greenbaum, Wolff & Ernest, New York.

Testimony before Senate Subcommittee on Constitutional Amendments. HLA Hearings—Part IV, p. 227-229, March 10, 1975

Amendment Procedures

There are two ways to amend our federal constitution. The first is by Congressional amendment and subsequent state legislative ratification, as

with the Equal Rights Amendment. The second is if two-thirds of the state legislatures petition Congress to convene a Constitutional Convention to consider an amendment. The U.S. has not held a Constitutional Convention since our present Constitution was drafted in 1787. A convention today would have the power to make sweeping revisions of our legal system. A convention ostensibly called to pass the HLA could in actuality be used by political groups within the New Right, such as the Moral Majority, to attack all civil liberties.

Before the November 1980 elections 19 states had petitioned Congress to convene a Constitutional Convention to discuss the HLA. This is over half of the 34 state resolutions needed to convene such a body. The danger of a Constitutional Convention is immediate. But equally important, the anti-abortion forces are using the specter of this unknown and unpredictable procedure to pressure members of Congress to pass a specific anti-abortion amendment to avoid the effects of a more far-reaching revision process. Thus, the two methods work in tandem and increase the likelihood of passage of the HLA by one means or the other.

HLA as Political Focus of New Right

After the U.S. Supreme Court's clear recognition of the basic privacy right of abortion in 1973, why is abortion such a hot issue today? In recent years economic instability and recession have raised fundamental questions about the ability of our economic system to continue functioning for the nation as a whole. Gains made by women in the 1970s have caused a tremendous anti-feminist backlash as traditional family structures have broken down and alternative lifestyles are explored.

Despite tactical disagreements within the New Right movement there is a basic consensus on preferred solutions to our social problems. Their answer is to strengthen established authority and institutional structures, including organized religion and traditional patriarchal family structure. Large numbers of people are convinced that repression is the remedy for their anxieties about infla-

tion and the economy, racial conflict, and changes in sexual roles and mores. The New Right focuses on an anti-abortion position, rallies a broad attack on feminism and sexual freedom, and uses the issue as a cutting edge for its regressive economic and social programs.

Anti-abortion and "profamily" propaganda is difficult to deflect or confront rationally; it plays on deeply ingrained feelings of guilt and powerlessness. Most of us were taught that sexual desires are bad, that freedom is immoral and that our lives are best guided by an externally imposed authority. For many people it is easier to accept these beliefs than to challenge them and risk further alienation from family, social and community networks. Despite the social upheavals of the 1960s and 1970s it is easier for many people to believe that the answers to all significant social issues lie within the rigid moralistic beliefs dominant during the 1950s.

Anti-abortionists are not "pro-life" as they claim. The anti-choice position denies the right of every child to be born healthy and wanted. The concern of the so-called "Right-to-Life" movement ends at birth; the majority of people opposing legal abortion support decreased state and federal funding for housing, medical care, child care, food stamps, public education and other social programs aimed at providing basic human necessities to children and adults. They are the same people who push blindly for "law and order", capital punishment, larger defense spending and nuclear armament.

What Can Be Done

As members of the legal community it is imperative that we speak out against the HLA and inform others of its dangers. If you are concerned about protecting your individual civil liberties and your right to choose, act now. Inform people about the dangers of the HLA and make your opposition to it known. Write your legislators today and voice your concern. Give money to pro-choice groups to aid their work. For more information regarding these issues contact CDRR at (415) 552-2000, 1638B Haight Street, San Francisco, CA 94117. Speakers and slideshow available.

Creative Rejection Competition Submit Yours to Us Now

Killing with courtesy

A British writer, according to *World Business Weekly*, received the following rejection slip from a Beijing economic journal:

"We have read your manuscript with boundless delight. If we were to publish your paper, it would be impossible for us to publish any work of a lower standard. And as it is unthinkable that, in the next thousand years, we shall see its equal, we are, to our regret, compelled to return your divine composition, and beg you a thousand times to overlook our short sight and timidity."

Just think of the possibilities of killing with courtesy. Judges and lawyers could adapt this principle easily to reject settlements, motions, jurors, amicus curiae briefs—the possibilities are endless.

Submission #2

Thank you for taking the time from your daily pinball practice to interview with us at Hastings (sp?) two years ago. We apologize for the delay in responding to you, but our dog chewed up the

first letter we had written and since then we have been too busy writing acceptance letters to everyone else who applied to us to be able to write a second letter.

Judging from your magnificent academic record, your superlative showing of civic involvement, and our heretofore undisclosed review of your sex life, we are sure that you will be world famous and it is therefore a sign of incredible stupidity that we must inform you that we couldn't possibly offer you even a janatorial position with our firm at any time in the foreseeable future (i.e. at least until Charlie Brown grows up). We will, of course, keep a copy of your "resume" in our circular file so that you won't ever be tempted to disgrace our office with it again.

We are sure that you will have no trouble finding employment at any other firm you apply to. We have, nonetheless, taken the liberty of forwarding your resume to the circus, where we feel it might be better utilized as a cage liner.

Congratulations and good luck buster!

Credits

Editor Dan Koller
Asst. Editor Andy Niemeyer
Advertising Director Mark Zimmerman
Mark Nordman

Blakely/Brady/Yin CAMPAIGN STAND

Continued from cover

tempt to broaden the audience that A.S.H. reaches. While the only contact many of us have had with A.S.H. is through the demonstrations and rallies with which it has been affiliated, the process of change within this institution is carried out on many fronts by A.S.H. For example, in the past month student concerns regarding the attitude of the security staff were addressed in meetings with the staff. The result has been a noticeably improved on-campus environment. The recent vote of support by the faculty for allocating space for the child care center in 100 McAllister may have been influenced by student demonstrations of support for the center, i.e. in the open letter from A.S.H. Also, the initial steps have been taken to assert the interests of the Hastings student body through the legislative process in Sacramento.

These "successes" represent incremental change, not dramatic victories for the rights of the student body. Major issues remain that must be addressed by A.S.H. leadership. Paramount are the actions of the administration that necessitated the filing of the P.I.L.A. lawsuit and the formation of the Special Admissions Coalition. It must be the primary focus of the A.S.H. leadership to communicate to the administration and the community the significance of these issues, along with the many others raised in the A.S.H. open letter. Some of the issues represent major questions of social policy but all of them implicate the right of the student body to be heard.

We are not children who are to be informed of major decisions ex post facto. Surely it is an insult to our intelligence that we are not even consulted about decisions that affect not only our day to day lives, but our professional careers. There must be enhanced student input on issues ranging from parking spots to what classes we will be able to take.

It is our intention to attempt to solicit more student input so that the leadership can direct its attentions to issues of concern. This will be accomplished through regular office hours and monthly A.S.H. Council sessions devoted exclusively to student complaints, ideas, etc. The channels of non-confrontational change are only as effective as our representatives within them. Student reps on university committees must be informed of student views in order to represent them.

A.S.H. must reach out to the community. We are not going to school in a vacuum. We are blocks away from

Wade/Lipschultz/ Miller Platform

Continued from cover

(e.g., like the '79-80 directory). ASH can allow students to use its name to get discounts on charter flights, lodging, ski trips, etc.. ASH can arrange to get group discounts on Bar review courses.

More Entertainment:

ASH can open a *Wine & Beer Pub* which would also provide revenue to support things such as the Child Care Center. ASH can sponsor *schoolwide parties*. ASH can arrange for *Law Firm Sponsored Wine & Beer Get Togethers*. ASH can open the school roof for *sunning and lounging*. ASH can show major movies with free beer for \$1—this would also provide revenue. ASH can sponsor money-making *concerts*.

In The Library:

ASH can put up a *Message Board* in the entrance of the new library. ASH can get course *Texts, Outlines, and Casenotes* put on Reserve.

In The Administration:

ASH can restore *Posted Grades* for those who wish. ASH can arrange for *Add/Drop* during the first week of classes.

Additional Revenue:

ASH currently receives \$6 per student (about \$9,000) for its annual budget. ASH can raise additional money from book sales, bake sales, t-shirt sales, and locker shelf sales. ASH can also raise money by opening a *Wine & Beer Pub*, by showing *movies*, by sponsoring *concerts*, and by purchasing *Electronic Games and Vending Machines* to get all of their profits (instead of leasing them and only sharing profits).

ASH CAN CHANGE...

JOHN WADE (Pres.)
JIM LIPSCHULTZ (V.P.)
BRAD MILLER (Treas.)

institutions that shape our society. A.S.H. should be a vehicle for interaction with these institutions, through meetings with officials, tours, etc.

The issues that have occupied the energies of most of those people associated with student organizations in the past year have occupied that attention because of a perceived subordination of the welfare of the students to the bureaucratic prerogatives of the administration. We must all attempt to make the institutions of our society more responsive to the human realities of those within and without them, or the institutions and the society itself will stagnate and die. It is with this perspective, that we place our names in nomination for the A.S.H. executive positions.

STATEMENT BY NANCY WONG

Continued from cover

tramural softball, Law Revue, the third year party, and other school events. ASH is the student government designed to represent all students.

I have been active in many student organizations and activities. I was a peer adviser for % D this year. I feel that more can be done to help the first year and transfer students. I would like to set up a program which would assign 5 to 10 first year and transfer students to second and third year volunteers who would advise the students after they had accepted Hastings' offer of admission, and throughout the year. I also feel that ASH could sponsor several "all-school" activities such as Friday afternoon movies, brown bag lunches with ASH providing beverages, activities in the city such as chartered tours at a reduced rate. I would also work to have a party at the beginning of the year for the entire first year class; and a party for the combined second and third year students.

I will work on increasing student health services—next year Hastings will no longer be covered by UC medical services. I would like to see another hour scheduled where no classes are held to give students the opportunity to attend other meetings without conflict. I would like to see fewer classes ending at 5:30 p.m. or later in the fall semester—with the sun setting early, the Tenderloin is not a safe place for students to walk after dark. These scheduling plans would not be implemented until after next year's remodeling is completed, due to the lack of classrooms.

I strongly support PILA, affirmative action and Hastings Child Care. A diverse student body is one of Hastings' strongest assets. These programs are necessary to serve a diverse

community. As the only female candidate running for an ASH executive position, I feel that I could bring to ASH a more balanced perspective to the difficulties faced by some students. I am a member of Asian/Pacific Law Students Association, the Third World Women's Coalition, and Special Admission Coalition.

If I am elected, I will establish a minimum of three office hours a week to be available to all students, to listen to their concerns and work on ways to help them. If you would like to talk to me before the election, leave a note in my locker (#1145) or call me (465-1386). I will be accessible to students. Thank you and please remember to vote.

Jessup Cup

Continued from page 2

in the regional competition are matched through a lottery system.

Last years competition revolving about a space law controversy was won by Georgetown University. The Hastings team which consisted of Frank J. Artusio, Barbara K. Brink, Dan Koller, C. Steven Rorke and Christine Taeuber took fourth place. This year as last year, Mr. Ben Kaplan and Mr. Richard Snyder, both Hastings graduates and Jessup Cup competitors will coach the international team. They will be assisted by Faculty Director, Mr. Jerome Marks and Ms. Janice Bunting, the administrative Director, both indispensable individuals to the functioning of Moot Court at Hastings and to the International team.



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ISSUE SPOTTING
a guide for Law Students

Torts

A TESTED TECHNIQUE FOR
MASTERING THE ESSENTIAL SKILL
OF ACCURATE ISSUE SPOTTING
Instructions/situations/issues/
practice materials/short hypotheticals/
Bar Exam essay questions/In-
structions/situations/issues/prac-
tice materials/short hypotheticals/
Bar Exam essay questions/Instruc-
tions/situations/issues/practice
materials/short hypotheticals/Bar
Exam essay questions/Instructions

BARBARA TAINES